

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT A JOHNSON,

Plaintiff,

v.

RAVEN WOOD HOMEOWNERS  
ASSOCIATION, et al.,

Defendants.

Case No. 3:24-cv-05087-TLF

ORDER DENYING PLAINTIFF'S  
MOTION FOR ORDER TO SHOW  
CAUSE

On May 16, 2025, Plaintiff moved the Court to enter an Order to show cause regarding Defendants' legal authority to litigate the instant matter. Dkt. 56. Plaintiff also moved to stay the trial and all related deadlines until Defendants establish the HOA has the capacity to litigate and is being lawfully represented. Dkt. 56. Defendants filed a response on June 6, 2025. Dkt. 61.<sup>1</sup>

Plaintiff argues the Raven Wood Homeowner's Association ("HOA") is governed by James Hutchinson, whose election validity should be questioned because he has "failed to appoint replacement directors, has exceeded the limited authority of an HOA

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<sup>1</sup> Plaintiff asserts, in his motion for leave to file a reply brief, that Defendants' response is untimely and was filed without leave of Court pursuant to Local Civil Rule 7(g). Local Civil Rule 7(g) pertains to "requests to strike material in motions or briefs" and sur-replies. Plaintiff's "motion to show cause" was noted for the Court's consideration on June 6, 2025, pursuant to Local Civil Rule 7(d)(3). Defendants' response, which was filed on June 2, 2025, was timely; Defendants were not required to request leave from the Court to file a response brief. Similarly, Plaintiff is not required to file a motion for leave to file a reply brief. Plaintiff's motion is nonetheless granted, and the reply brief has been considered by the Court. Dkt. 62.

1 president, and appears to have unilaterally retained defense counsel.” Dkt. 56. Thus,  
2 Plaintiff has moved the Court for an order to show cause on the basis the HOA is not  
3 lawfully constituted and lacked the authority to retain legal counsel. Plaintiff asserts the  
4 case should be stayed until there is a lawful HOA.

5 Defendants concede James Hutchinson is currently the President and the sole  
6 board member. Dkt. 61. Defendants argue, however, there is no provision of the Raven  
7 Wood by-laws or Washington state laws concerning nonprofit HOAs that would prohibit  
8 an HOA from operating when there are vacancies or that would be interpreted to mean  
9 an HOA is unlawfully composed due to vacancies on the board.

10 For example, Article VIII (“OFFICERS AND THEIR DUTIES”), Section 6 of the  
11 Raven Wood by-laws, provides: “[a] vacancy in any office may be filled by appointment  
12 by the board. The officer appointed to such vacancy shall serve for the remainder of the  
13 term of the office replaced.” Dkt. 56-2 at 4. Nothing in the bylaws prevents the HOA  
14 from operating if there are vacancies.

15 The by-laws are consistent with the Washington Nonprofit Corporation Act, RCW  
16 24.03A.535. Even in instances where there are no directors remaining in office, it is only  
17 the attorney general that has the power to appoint one or more directors selected for  
18 their interest and ability to carry out the purposes of the corporation. The Washington  
19 Nonprofit Corporation Act does not prohibit a corporation from operating while  
20 vacancies are being filled.

21 Further, both the Raven Wood HOA by-laws and the Washington Nonprofit  
22 Corporation Act, permit the HOA to retain counsel and participate in the litigation. Article  
23 VII, Section 1 of Raven Wood’s Bylaws provides that the board “shall have power to (c)

1 employ a manager, or independent contractor, or other such employees as they deem  
2 necessary, and to prescribe their duties. Article VII ("POWERS AND DUTIES OF THE  
3 BOARD OF DIRECTORS"), Section 2(c) provides that the board has the duty to  
4 supervise all officers, agents, and employees of the Association, and to see that their  
5 duties are properly performed." Dkt. 56-2 at 3. Similarly, the Washington Nonprofit  
6 Corporation Act states, every nonprofit corporation has the power to "sue and be sued,  
7 complain[], and defend its corporate name," and "make contracts; make guarantees that  
8 may reasonably be expected to benefit, directly or indirectly, the guarantor corporation;  
9 incur liabilities; borrow money; issue notes, bonds, and other obligations; and secure  
10 any of its obligations by mortgage or pledge of any of its property or income." RCW  
11 24.03A.140.

12 Plaintiff has not provided sufficient reason for the Court to stay the trial until the  
13 HOA has "lawful capacity or valid representation." Plaintiff's motion is DENIED. This trial  
14 is reset to November 18, 2025.

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16 Dated this 25th day of June, 2025.

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Theresa L. Fricke  
20 United States Magistrate Judge  
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